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Paul Marginson*

Europeanisation and Regime Competition: Industrial Relations and EU Enlargement**

Abstract – Contending that regime competition and Europeanisation of industrial relations are two competing tendencies which interact, the paper elaborates on the two processes in the context of the ‘old’ European Union of fifteen member states. The consequences of the EU’s May 2004 eastern enlargement are then addressed. Simultaneously enlargement, by embracing a more diverse set of national labour market structures, wage and productivity levels, has both increased the scope for regime competition and threatened to stall the process of Europeanisation. Prospects for an augmented social dimension to accompany European economic and market integration rest on the emergence of pressure from the new member states of central and eastern Europe, as well as its renewal amongst the countries of the ‘old’ EU.

Europäisierung und Regimewettbewerb: Industrielle Beziehungen und EU-Erweiterung

Zusammenfassung – Ausgehend von der Annahme, dass die nationalen Systeme industrieller Beziehungen im konkurrierenden Verhältnis zwischen Regimewettbewerb und Europäisierung stehen, untersucht der Autor zunächst im Kontext der 15 alten Mitgliedsstaaten der Europäischen Union diese beiden Tendenzen. Dem folgt die Erörterung der Konsequenzen der Osterweiterung vom Mai 2004. Die Erweiterung hat eine größere Varianz nationaler Arbeitsmarktverfassungen sowie der Lohn- und Produktivitätsniveaus mit sich gebracht. Das Spektrum für Regimewettbewerb hat sich dadurch vergrößert und gefährdet den Prozess der Europäisierung industrieller Beziehungen. Die Aussichten für eine verstärkte soziale Dimension im Zuge der europäischen wirtschaftlichen Integration hängen nun von der Entstehung von Druck aus den neuen Mitgliedsstaaten in Mittel- und Osteuropa ebenso ab wie vom Erneuerungswillen der Gruppe der alten Mitgliedsstaaten hinsichtlich der sozialen Dimension.

Key words: **Collective Bargaining, European Industrial Relations,
European Social Model, Regime Competition, Social Dumping**

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1. Introduction

The contrasting scenarios which Europeanisation, on the one hand, and regime competition, on the other, might lead to – in terms of Europe's system(s) of labour market regulation – have been the focus of extended debate. Europeanisation refers to a tendency 'in which there is discernible movement with common policies leading to common outcomes achieved by common processes' (Marginson/Sisson 2004: 8). Regime competition arises from the imbalance between economic and social integration within the EU (Streeck 1992): as European product markets are progressively integrated the labour market regimes of individual member states are increasingly set in competition with each other. Recently the dynamics driving these widely perceived alternatives have shifted from the former towards the latter. This shift is refracted in two major events in the evolution of the European Union (EU).

The first is the eastern enlargement of the EU, from May 1st 2004, to include 8 post-communist central east European (CEE) countries (plus Cyprus and Malta). The scale of the gap in labour costs and incomes, combined with the flexible labour market regimes embraced by most countries in the region, have triggered afresh fears of intensified regime competition – at worst resulting in widespread social dumping as production and employment move east motivated by the search for lower labour costs. In western Europe, the public mood triggered by these renewed fears is aptly captured by the description by Nicolas Sarkozy, then French finance minister, of Siemens' threat to shift a substantial proportion of production from two factories in Germany to Hungary, unless the German workforce agreed to work longer hours, as 'a form of extortion' (Financial Times, 20 July 2004).

The second is the fate of the EU's first constitutional treaty, adopted by the Heads of Government of the EU's 25 member states at their June 2004 summit. The constitutional treaty incorporates a Charter of Fundamental Rights which, should the treaty ever be adopted, provides a legal basis to a range of labour rights which are integral to the industrial relations dimension of Europe's so-called social model. These include the right to association, rights to conduct collective bargaining and take industrial action, the right to representation at enterprise level for information and consultation, equality between men and women and, more generally, non-discrimination in employment. The fear amongst some governments, including the UK's, and the business community had been that the Charter could mark a further step towards Europeanisation of labour market regulation. But with its rejection in referenda in France and the Netherlands in May/June 2005 the constitutional treaty looks unlikely to be adopted for the foreseeable future. Fears of, or hopes for, any resulting further 'Europeanisation' have been put on ice.

The renewed impetus towards regime competition which the EU's eastwards enlargement has unleashed, combined with the absence of further measures to augment the social dimension of economic and market integration across a larger and more diverse group of member states, could – it is feared – result in a downwards competitive spiral of wages, working conditions and employment protection. Yet, as the EU's former Employment and Social Affairs Commissioner Anna Diamantopoulou observed, it is something of a 'caricature' to view things in terms of 'the two extremes

of social union versus a completely deregulated free-for-all' (Financial Times, 18 September 2000). The perspective taken in this paper is that it is more productive to view Europeanisation and regime competition as competing tendencies which co-exist and interact.

The structure of the paper is first of all to elaborate the two dynamics in the context of the 'old' EU, starting with regime competition and then moving on to 'Europeanisation'. It will be shown how the latter has been propelled forward by concerns about the consequences of the former. The paper then turns to the impact of the EU's 2004 enlargement, arguing that at the same time it both exacerbates regime competition and threatens to stall Europeanisation. In the concluding section, prospects for a renewal of pressures towards Europeanisation are assessed.

2. Regime competition

The scope that an integrated European market and production space opens up for countries and companies to engage in regime competition, and the potential for this to result in widespread social dumping (in which labour standards and wages and conditions are progressively undercut in the search for competitive advantage), has been a continuing concern for trade unions, several national governments and the European Commission.

At macro-level, regime competition between the different labour market systems of member states is widely held to have been further exacerbated by the onset of Economic and Monetary Union. The economic adjustment required, particularly to bring inflation rates down and reduce public sector deficits, was in part secured through the conclusion of national social-level pacts between employers and trade unions, either directly involving or facilitated by national governments (Fajertag/Pochet 2000). Such pacts featured in a majority of the member states committed to join the Eurozone. Social pacts typically involve a package of measures embracing reform of welfare systems, active labour market measures to support training and employment, and wage restraint – aimed not only at control of inflation but also at enhancing the economy's competitiveness *viz-a-viz* others. Even in those countries not concluding social pacts there is widespread evidence of pressure on negotiators to restrain sector-based wage increases, so as to enhance competitiveness (Schulten 2002). Capturing the essence of the process, Rhodes (1998) refers to a shift from 'social' to 'competitive corporatism'.

At meso-level, regime competition is ongoing between regions and localities in order to maintain and/or attract production, service activity and new investment – and therefore sustain or create employment. A key driver is the location decisions of multinational companies (MNCs), especially those in sectors characterised by internationally integrated operations. Such conditions are not solely confined to manufacturing but are emerging in some service sectors too – call centre and back-office operations of banks being an example. Labour considerations are, of course, just one of a range of parameters which are involved in investment location decisions. Typically internationally integrated producers will organise a kind of 'beauty contest' between different possible locations – across different countries – in order to negotiate the best possible offer (Meardi 2006a). Labour quality, prevailing work attitudes and traditions

of militancy, as well as labour regulation and labour costs are often to the fore in the calculus of these contests (Mueller 1996; Traxler/Woitech 2000).

Amongst member states, sensitivity to the potential for regime competition to give rise to social dumping has been particularly evident in Germany and France. In Germany, for example, there has been ongoing debate over whether high wages and extensive labour market regulation are deterring investment and therefore jeopardising the future of 'Standort Deutschland'. Adding impetus to the Standort debate 'has been the sudden emergence of a large pool of cheap, but relatively well qualified labour on Germany's eastern borders' since 1989 (Ferner 1997a: 176). Such sensitivities have been less marked in the Nordic countries, which also combine high wages and extensive labour market regulation, but where levels of unemployment are noticeably lower than in France and Germany. Active labour market policies aimed at smoothing industrial restructuring are a noticeable feature of the 'Nordic model'. In the UK, by contrast, governments of both political complexions have made considerable virtue of the role of a relatively lightly regulated labour market in attracting a substantial share of EU inward investment.

Yet the argument is not quite as straightforward as it seems. Member states are implicated differently in the twin processes of outwards relocation and inward investment. Hirst and Thompson (1999) and van Tulder et al. (2001) find French- and German-based companies to be more home, and less extra-European, focused than their Swedish, Dutch and British counterparts. France, which has noticeably higher labour costs and tighter labour market regulation than the UK, has also attracted substantial flows of inward investment – in excess of Germany and almost on a par with the UK (UNCTAD 2004). Moreover the flexible nature of the UK's labour market is double-edged: it makes for easy exit as well as attracting investment in. This 'perverse' impact (Ferner 1997a: 184) has become increasingly apparent as the more internationalised MNCs rationalise and restructure their operations on a pan-European basis to secure economies of scale.

Overall, evidence of social dumping in the context of European integration indicates that its extent has been limited (Ferner 1997a; Marginson/Sisson 2004: 221-23). This is because even confining our focus to labour considerations, the process of regime competition is multi-dimensional, ranging across labour quality, skills and productivity; different forms of labour flexibility – qualitative as well as quantitative; labour regulation; and labour costs, both direct and indirect. It is unit labour costs – a compound of these different elements – which matter to producers, rather than labour costs per se. Accordingly, regime competition is giving rise to rather more nuanced outcomes.

Even in Portugal, which because of its relatively lower labour costs had been seen as a potential beneficiary of social dumping in the 'old' EU, a complex pattern emerges. The low cost base has been important in attracting inward investment in labour-intensive sectors such as clothing and footwear – but access to the local market appear also to be spurring inward investment into modern, more capital-intensive manufacturing sectors and commerce (Buckley/Castro 2001). In Greece and Spain, also relatively poor countries at the time they joined the EU, wages (and social expenditures) have progressively increased towards those elsewhere in the EU (Alber/

Standing 2000). Within particular sectors, evidence points to a complex geography in which two-way investments flows into and out of particular countries are evident: automotive and aerospace are both examples.

Such trends suggest a tendency amongst MNCs to segment and stratify activities according to the varying characteristics of different national labour market regimes, in terms of labour costs, quality, flexibility and productivity. This is consistent with official data showing convergent unit labour costs across the EU-15 over the past decade, but around different labour-cost and productivity configurations (Eurostat 2003). For example, Austria, Benelux, Germany and the Nordic countries all have relatively high levels of productivity, and relatively highly qualified and skilled workforces, offsetting higher labour costs, as compared with the UK, Spain and Portugal.

Yet such a tendency seems not to have markedly attenuated the political potential that the threat to relocate has offered MNCs to lever changes in labour market regulation at macro- and micro-levels. One aspect of the significance of the Standort debate in Germany, and continuing controversies over 'délocalisation' in France, is to have augmented the pressures for reform of their respective industrial relations systems. The outcome has been a growing measure of decentralisation in both countries aimed at providing greater space for company-level negotiation – something which MNCs have long been prominent in advocating (Marginson/Sisson 1996).

An implicit – if not explicit – threat to relocate is bound up with the 'coercive comparisons' of labour costs and performance across sites and countries which are integral to the management systems of the more integrated multinational producers. Individual sites are under continuous pressure to improve performance, with the risk of otherwise being starved of investment and ultimately run down and closed (Mueller/Purcell 1992; Mueller 1996). The comparisons which underpin these business decisions are deployed by management to place pressure on local workforces, and through local negotiations to lever cost-reducing and flexibility concessions. The result can be a cross-border round of concession bargaining through a process of 'strategic interactions' (Hancké 2000; Kvist 2004).

In terms of policy, the relocation consequences of regime competition and fears of social dumping have provided important impetus towards the European-level regulatory measures outlined below. The European Commission of Jacques Delors viewed a social dimension as a necessary accompaniment to the creation of the single European market. This took the shape of a series of legislative initiatives aimed at constraining the scope for social dumping and at guaranteeing employee voice (through new information and consultation rights) in the widespread restructuring and rationalisation of industry that the single market was expected to trigger.

Specific instances of relocation or social dumping served to spur on the legislative process. For example, the 1993 decision of Hoover to transfer part of its production from France to Scotland, on the basis of extraordinary wage and flexibility concessions extracted from the Scottish workforce – under threat of closure – became a political cause celebre, providing the final impetus towards the adoption – in 1994 – of the European Works Councils directive. This gave workers' representatives rights to be informed and consulted about transnational business decisions which affected

workforce interests. Four years later, Renault's decision to close its Vilvoorde plant in Belgium and transfer production to its Spanish facility – without properly consulting either the Belgian workforce or its European Works Council – signalled the start of a long campaign to strengthen consultation rights under the 1994 directive, which is currently under review.

As well as prompting 'top-down' European interventions, regime competition can also – paradoxically – promote 'bottom-up' Europeanisation through encouraging processes of cross-border learning and collaboration. In this vein, for example, Dølvik (2000) has suggested that insofar as they reference common European economic indicators, social pacts might be seen as promoting regime collaboration rather than competition. And pressures from regime competition may prompt workers' representatives in MNCs to develop cross-border networks so as to counter management comparisons with ones of their own. In this way, local negotiations might come to focus on concerted improvements to conditions and not only concessions.

3. Europeanisation

The European Union can point to a growing social dimension and the creation of new European-level institutions in industrial relations. The social dimension comprises a range of legislative measures (directives and regulations) and also the output, much of it 'soft' in regulatory nature, from the social dialogue between employers and trade unions at cross-sector and sector levels.

The changing nature of EU regulation

Recent developments have been characterised by changes in the form that 'top-down' regulation has taken. In addition, horizontal, cross-national developments have appeared involving national-level actors and/or European-level organisations of capital and labour. These too are contributing to the Europeanisation of labour market regulation.

The period since the adoption of the Maastricht Treaty in 1991 has seen less reliance on uniform statutory measures than previously; directives have tended to specify frameworks in which there are enhanced possibilities for member state governments to take different options and elaborate detail in transposing them into national law. Some directives also include possibilities for options or derogations which can only be triggered by collective agreement between employers and trade unions. The EU's 1993 Working Time Directive, for example, embraces both these possibilities. At the same time EU legislation has enhanced the role of the industrial relations method of collective agreement as a regulatory means. In addition to the possibility for the social partners to negotiate agreements under the procedures of the Maastricht Treaty's social chapter (see below) and the derogations under the Working Time Directive just referred to, another instance is the precedence given under the European Works Councils Directive to arrangements negotiated between the parties – central management and employee representatives in MNCs – over the statutory model EWC specified in the Directive. Virtually all the EWCs which have been established to date arise from such agreements (Hall/Marginson 2004).

The recent period has also been marked by the growth of 'soft' forms of regulation – framework agreements, joint declarations and guidelines and codes of conduct – which have emanated from the cross-sectoral and sectoral social dialogues, and also from some EWCs. Although not binding on national affiliates, the intention that these should be implemented is – in a growing number of instances – backed up by the softer enforcement mechanisms of monitoring and review.

Newer still is the emergence of the so-called 'open method of coordination', which combines processes of common target setting by member states, cross-country benchmarking and periodic review. The method originated under the EU's Employment Strategy, which is essentially a coordinated and Commission-facilitated inter-governmental process. The method's advantage lies in the fact that it allows the parties to agree on a common set of standards to be aimed at, but leaves decisions on the actions to be taken to achieve these to individual national actors – thereby circumventing the considerable institutional and cultural differences which exist between member states (Arrowsmith et al. 2004). Trade unions' cross-border bargaining coordination initiatives also seek to deploy the softer regulatory tools of the open method of coordination.

A key question arising out of the last two sets of developments is whether the regulation involved is likely to be effective? In a series of publications Berndt Keller (see, for example, Keller 2000, 2003), contends that because the bulk of the output 'is not binding for the signatory parties' (2000: 38), it is more difficult to implement than the collective agreements commonly associated with national systems, which do tend to be binding. Moreover, any commitment to implementation through national collective bargaining, as under the cross-sectoral agreements on teleworking and stress at work, is only realisable to the extent that collective bargaining coverage is extensive across all member states.

However, it does not follow that because an agreement is a binding or legal contract it is more likely to be implemented, as Keller assumes. Non-compliance, it seems, is no more a problem in Ireland and the UK, which are characterized by 'voluntarism', than in the majority of west European countries where collective agreements are legally enforceable. Conversely, Falkner et al's (2005) study of the implementation by member states of binding agreements concluded between the EU social partners, and subsequently adopted as directives by the EU Council, identifies very different 'worlds of compliance' amongst the EU-15. This conclusion extended to the take-up of the 'soft' clauses which were also a feature of these agreements. Little is known about implementation of voluntary European agreements and joint texts by employers' organisations and trade unions within member states. Implementation of the EU social partners' agreement on teleworking, concluded in 2002, is the subject of a joint study by the parties – the first of its kind – which is expected to report by the end of 2006. Non-binding agreements are not, however, necessarily ineffective. Successful implementation need not be legally-backed but can rest on the 'moral weight' (Visser 1998: 306) of jointly agreed principles together with effective monitoring and benchmarking processes. The question for European-level actors is whether and how they can mobilise such 'moral weight'.

The 'open method of coordination' is a different matter. Set against its central advantage of combining centrally agreed objectives with devolved actions to achieve these, come a number of offsetting problems (Goetschy 2005). First, resort to the open method of coordination does little to redress the prevailing imbalance between instruments and mechanisms to promote economic integration, and the alignment of member states' economic policies, on the one hand, and the coordination of member states social policies, on the other. Second, the open method of coordination threatens not only to displace the traditional Community method of legislation, but also the more recent one of collective agreement. Implementation problems are at least as great as those associated with 'soft' or non-binding agreements, and the mobilisation of 'moral weight' at European level is even more problematic because there is not even a common commitment to a substantive measure, only a target or quantified objective. Third, although the open method of coordination increases the number and range of actors involved, it does so in a way which relies on expert networks, thereby exacerbating the complexity and opaqueness of the policy-making process and creating 'difficulty for democratic transparency' (Goetschy 2005: 76).

Developments at three European levels

Recent developments reach across three European levels: the cross-sector or Community level, the sector level and the company level.

At *EU Community level*, the key development was vertical in nature and lay in the provisions of the 'social chapter' of the 1991 Maastricht Treaty. This accorded rights to the EU-level social partners – employers organisations and trade unions – to be consulted on proposed legislative measures in the social policy field, and – if they wished – to negotiate an agreement on the matter in question in place of the traditional legal instruments of either a directive or a regulation. Such agreements, could – if requested by the social partners and agreed to by the EU's Council – be subsequently given the binding force of a directive.

To date, the use of these procedures has given rise to five framework agreements – dealing with parental leave, rights of part-time workers, rights for temporary workers, teleworking and stress at work – the first three of which were subsequently accorded the binding force of a directive. There have been failures under the procedures too – most recently over a proposed measure regulating the terms and conditions of temporary agency workers.

Until the recent negotiations on teleworking and stress at work, negotiations had remained confined to issues on which the Commission proposed to bring forward draft legislative proposals. In other words, bargaining between the EU-level social partners has largely occurred 'under the shadow of the law' (Bercusson 1992), reflecting employer reluctance to engage until it became clear that the Commission was determined to legislate. Since the Commission has now largely fulfilled the ambitions of the original social dimension proposed by Jacques Delors, and since no new agenda of similar scope and substance has emerged, the impetus created by the shadow of the law is now 'fading' (Falkner 2003: 24). The Community-level regulatory process might therefore be running out of steam.

Developments at *European sector level* are apparent on both the vertical and horizontal dimensions. The European Commission's 1998 relaunch and revamp of the sector social dialogue, involving sector-based European federations of employers and trade unions across a range of industries and services, has had the effect of both increasing the sectoral coverage of dialogue, and prompting the conclusion of new forms of regulatory output. The establishment of sector social dialogues for local and regional government and chemicals in 2004 took the proportion of the EU's workforce covered well past the 50 per cent mark – compared to around 40 per cent in 1998 (Marginson 2005). The changes in regulatory output have been two-fold. First, the procedures of the Maastricht Treaty's social chapter have been used to reach agreements on working time in three transport sectors, which have been given binding force. More widely, a number of sectors have adopted 'framework agreements', 'joint guidelines' or 'codes of conduct' on a range of substantive matters which whilst not binding on their affiliate members commit the parties to monitor implementation and take follow-up action.

The second key development is horizontal, and involves the cross-border bargaining coordination initiatives launched by national and European-level trade union organisations in several sectors. Prompted by fears of a downward spiral of terms and conditions in the face of growing regime competition, these aim to co-ordinate the agenda and outcomes of sector-level negotiations on wages, and also on working time and other conditions of work, across different European countries. Two kinds of initiative are apparent: EU-wide, organised under the auspices of the relevant European industry federation of trade unions, and inter-regional initiatives involving cooperation between unions in a given sector from neighbouring countries. Inter-regional initiatives have tended to focus on Germany and its neighbours and the Nordic countries, and both kinds of initiative are most prominent in the metalworking and construction sectors (Schulten 2003; Marginson 2005).

At *European company level*, the key development was the adoption of the European Works Councils directive. There are now EWCs in some 750 MNCs involving an estimated 15,000 employee representatives (ETUI 2004). Around 25 have gone on to negotiate joint texts and agreements between central management and employee representatives, thereby exceeding the information and consultation remit which the directive lays down. Important also is the cross-border dimension to local company bargaining which the coercive comparisons drawn by the management of MNCs are driving forward. In a few instances, trade union representatives are using the potential that EWCs provide to network across borders and compile comparisons of their own to be used in local negotiations (Marginson/Sisson 2004: 239-42).

Summary

Although the core issues of wages and working time largely remain the province of regulation by national actors, the refraction of the industrial relations dimension of the European social model at EU-level has become increasingly well-defined. There is, of course, no supranational, co-ordinated collective bargaining of the kind found in most west European member states. Yet, the organisation of interests at European level is reasonably well established, if less well resourced than at national level, amongst both

employers and trade unions. These interest organisations have acquired a defined role in shaping European-level regulatory initiatives, including space for the method of collective agreement. Rights to worker representation within companies at the European level have been established, along with those to be informed and consulted. Arguably, the recent growth in soft forms of regulation has itself depended on the elaboration of a 'fundament of hard regulation' (Wedderburn 1997: 11) at European level.

Important too is the interaction between vertical, top-down and horizontal, bottom-up developments. The deployment of coercive comparisons by management, and its pursuit of similar outcomes for local negotiations in different countries, has been the cue for several EWCs to develop a negotiating role aimed at agreeing a common framework. Unions in some sectors where there is as yet no social dialogue structure, such as metalworking, have used cross-border bargaining coordination initiatives to place pressure on employers to 'come to the dialogue table'. Union cross-border bargaining coordination initiatives also place the issue of wages firmly onto the European-level agenda, something which is precluded under the social dialogue. Recognising the growth in 'soft' texts being agreed under the social dialogue and by EWCs, the European Commission, proposes an 'opt-in' legal instrument for autonomously concluded transnational agreements (EC 2005). This would give firmer legal standing to such agreements and most likely facilitate their implementation. Such interaction has implications for debates over widening or deepening the regulatory capacity of the EU, where the conventional view is to present the two as alternatives (Kvist 2004). The case for regarding them as complements, in which widening creates new possibilities for depending, and vice versa, is at least as compelling.

4. EU eastern enlargement: intensifying regime competition *and* stalling Europeanisation?

By embracing eight central eastern European countries where 1998 gross wages and salaries and GDP per capita were on average 15 per cent of the levels prevailing across the EU-15 (Kittel 2002), the EU's 2004 eastern enlargement has placed the European social model under unprecedented strain. Of the CEE new member states, only Slovenia reached levels of wages comparable with those of Greece and Portugal – the lowest two amongst the EU-15. An analysis of more recent (2001) Eurostat data finds that employment costs in the EU-15 were, on average, over four times those in the new member states (Mercer 2005). Unemployment rates, which averaged 8 per cent across the EU-15 in 2003, were on average almost double amongst the ten new member states at just under 15 per cent (European Commission 2004).

The eastern enlargement has far-reaching implications for the institutions of labour market regulation which are integral to the European social model. Crucially, it brings into the EU six countries whose collective bargaining arrangements do not conform with the norm of co-ordinated, sector-based multi-employer bargaining structures. Hungary, Poland, the Czech republic and the Baltic states all – like the UK – have single-employer collective bargaining arrangements in which, also like the UK, only a minority of the workforce are covered by collective agreements (Carley 2002; Kohl/Platzer 2004). Only tiny Slovenia, and to a lesser extent Slovakia, have sector-based arrangements which mirror those found across most of western Europe.

For these reasons, the EU's eastern enlargement has also re-ignited debates about what the 'end-point' for European labour market regulation might be. Sinn and Ochel (2003) provide a strong statement of the virtues of market-led harmonisation between the labour markets of the 'old' and 'new' Europes, arguing that any social policy intervention aimed at creating a level playing field would most likely damage economic growth in the new member states. Reviewing the implications of industrial relations in Poland for arrangements in the 'old' EU, Meardi (2002) suggested that enlargement might turn out to be the 'trojan horse for the Americanisation of Europe' (title of article). Alarmed by such a prospect, other commentators have underlined the necessity of EU-level intervention to establish and entrench the core sectoral and cross-sectoral institutional architecture of industrial relations in the CEE new member states, arguing that relying on internal dynamics within these societies will not suffice (Mailand/Due 2004: 195).

The central contention of this section is that the 2004 enlargement both exacerbates the scope and nature of regime competition within Europe's integrated market *and* threatens to stall the further Europeanisation of the institutions and processes of labour market regulation.

Exacerbating regime competition

In assessing the implications that eastern enlargement poses for regime competition, the dynamics in the service sector – where market access is the dominant motivation for inward investment into the new member states – need to be set apart from those in manufacturing. Here efficiency-seeking motives predominate amongst the growing numbers of MNCs investing in central Europe (see Marginson/Meardi 2006 for a review of the evidence). Only in a few sectors, such as food and drink manufacture, is market access an important consideration. In some production sectors, including construction and transport, regime competition has been aggravated by the posting of workers from the new member states. In the case of the Nordic countries, for example, this has involved companies based in the Baltic states attempting to post workers on terms and conditions prevailing under collective agreements concluded in the country of origin, as in the Laval un Partneri case (Woolfson/Sommers 2006). Exacerbation of regime mobility through such cross-border labour mobility, whilst important, is not addressed further here. The focus instead is on those parts of manufacturing where re-export rates to western Europe in excess of 50 per cent testify to the efficiency-seeking nature of much inward investment into the new member states.

By combining geographic proximity of production locations to EU-15 product markets, with abolition of tariff and non-tariff barriers to trade and differences in labour costs and labour market regulation, the EU's eastern enlargement has substantially increased the opportunities for the international reorganisation of production to supply the enlarged and integrated European market. The combination of lower labour costs, relatively high levels of workforce qualification and more lightly regulated labour markets as compared to most of the EU-15, makes the CEE countries an attractive location for investment in industries where production is integrated across borders and market presence is defined in terms of 'Europe' rather than individual countries. Confirmation of such attractiveness comes from inward investment statis-

tics, which show that flows into the CEE countries were to large extent unaffected by the overall downturn in global activity after 2000 (UNCTAD 2004). The CEE countries' share of global inward investment flows has risen from 0.5 per cent in 1990, to 1.7 in 2000 and 4.3 in 2004 (EIRO 2005 calculated from UNCTAD data).

Initially there were fears of widespread social dumping occurring in manufacturing as mobile international capital took advantage of markedly lower labour costs in CEE countries to relocate production. But this appears to have been confined to a first wave of inward investment in the early 1990s, which focused on labour-intensive 'outward processing' sectors and activities, such as clothing and footwear and assembly of electrical components. From the second half of the 1990s, inward investment into central Europe has both increased rapidly *and* shifted towards higher value-added sectors and activities – a structural shift which has been widely documented (e.g. Galgoczi 2003; Radosevic et al. 2003; Tholen/Hemmer 2005). Under this 'second wave', foreign direct investment has increasingly focused on more technologically advanced operations which constitute integral elements of companies' international production networks.

Although wage costs in manufacturing operations in central Europe are still on average lower than in those in the west, under the regime competition associated with this second wave of efficiency-seeking investment the search for lower labour costs per se is no longer the prime consideration. The attractiveness of central European production locations lies also in the availability of labour skills, the potential for labour flexibilities and greater autonomy for company-based employment relations. The result is productivity levels which are approaching, or even match, those prevailing in western Europe and – due to lower wages and longer working hours – unit labour costs that in several countries are below those in the 'old' EU. Aggregate unit labour costs in 2000 were comparable to those in the EU-15 in Poland and Slovenia, and as much as 30 per cent lower in Hungary and the Czech and Slovak republics (UNCTAD 2004).

Gauging how much of the flow of manufacturing inward investment into the CEE new member states can be attributed to potential efficiency advantages, and hence ascribed to the consequences of regime competition, is an exercise fraught with difficulty. Production transfers are usually hidden within broader data on foreign direct investment flows. Moreover it is impossible to determine the proportion of investment flows to 'newer' destinations, including the CEE countries, which might otherwise have gone to 'older' destinations in western Europe. The proportion which can directly be attributed to relocation of operations from western Europe is almost certainly relatively small. Of the 988 instances of company restructuring reported during 2005 by the European Foundation's European Restructuring Monitor (<http://www.emcc.eurofound.eu.int/erm/>), 100 involved instances of offshoring or 'délocalisation' (and include those to Asia as well as elsewhere in Europe). These 100 cases, which almost all involved companies based in the EU-15, accounted for just 5 per cent of the overall total of just over half a million jobs affected by restructurings (author's own calculations). The proportions amongst restructuring cases reported in the previous three years were similar (EIRO 2005).

Turning to broader foreign direct investment flows, further evidence indicates that a significant proportion of manufacturing inward investment into the CEE coun-

tries is motivated not by considerations of production efficiencies, but by those of market development (Tholen/Hemmer 2005). Another consideration is the requirement to be proximate to industrial customers. A survey of 1630 German manufacturing companies investing in central Europe found production costs were cited as a motivating factor in 65 per cent of instances, and market development in 60 per cent i.e. both factors were salient in a proportion of cases. In 34 per cent of cases companies cited proximity to major customers as a factor (Fraunhofer Institute 2003). Within manufacturing, there is also considerable sectoral variation in the relative prominence of market development and efficiency factors (Marginson/Meardi 2006). Overall, the evidence suggests that efficiency advantages account for an important but not dominant proportion of inward investment flows in manufacturing into central Europe, and that direct relocations are much less significant than new investment decisions which might otherwise have been located in western Europe.

The country where inward investment is most clearly efficiency-seeking in nature (because of the local market's relatively small dimensions) but where labour costs are relatively high as compared to elsewhere in CEE is Slovenia. Rojec and Stanojevic (2001) demonstrate that inward investment into Slovenia frequently results from cross-border reorganisation and restructuring of multinationals' international operations, and is attracted by labour quality, know-how and flexibilities which promise inward investors comparative advantage in terms of unit labour costs.

The sector which offers the most instructive illustration of the dynamics involved is automotive. It approximates a critical case because of the scope and scale of the potential – and actual – reorganisation of international production which is underway across the enlarged European economic space. The sector is dominated by foreign firms – west European, north American and Japanese owned – which in both components supply and final manufacture re-export around 90 per cent of their production to western Europe. Because of the previous limited development of the sector in the CEE countries, inward investors also have a considerable degree of freedom in shaping the labour relations environment at what are frequently greenfield sites.

The scale of the shift of production in the sector towards the new member states is striking. Most of the large, established car manufacturers operating in western Europe have established new CEE production facilities over the past few years. The same goes for the first-tier automotive supply giants, such as Bosch, Delphi and Valeo, where manufacturers requirements that their suppliers should be geographically close have added to the momentum. The most recent car manufacturing facility to open was the joint venture between Toyota and Peugeot Citreon in the Czech Republic, an event which prompted the chief executive of Peugeot, Jean-Marie Folz, to observe that 'I don't see us ever building a new plant in western Europe again' (Financial Times, 8 March 2005). In the components part of the sector, it is reported that one-half of all of the sizeable body of German-owned automotive supply companies now have operations in CEE (Financial Times, 1 March 2005).

Regime competition is at its most visible in the so-called 'beauty contests' over the location of large car manufacturing facilities by the major multinationals. Early on in the planned investment project, location offers are invited from all the CEE countries, following which two or three locations are short-listed. Negotiations between the

company and the public authorities then proceed over items such as public infrastructure support, access to business and communications infrastructure, subsidies and tax exemptions. Eventually a decision is taken, but without indicating the reasons for the final choice. Hence local actors are left to infer what the critical factors might have been. In the past two years Poland has lost out on three large car manufacturing investment projects involving some 20,000 jobs to the Czech (1 instance) and Slovak republics (2 instances). Meardi (2006a) shows how – despite the absence of any clear cut evidence – labour costs and labour regulation are assumed to have been the crucial, negative, factors mitigating against a favourable outcome.

Once new investment projects are up and running, or acquisitions have been absorbed and integrated into international production networks, the ‘orbits’ for the ‘coercive comparisons’ of costs and performance across the sites of internationally integrated producers – deployed in local negotiations to secure concessions from the workforce – are correspondingly extended. The potential involved is highlighted by two cases, one in France the other in Germany, which became headline news across Europe over the summer of 2004. Workers at a Bosch plant near Lyon producing fuel injection systems, faced with the loss of an investment project to a Czech facility where labour costs were said to be 40 per cent cheaper, voted to breach the 35-hour week by working an additional hour, thereby securing around 200 jobs at the plant (*Le Monde*, 11 September 2004). And faced with the company’s threat to transfer 2000 jobs to its operation in Hungary, 4000 workers at two Siemens electronics plants in North-Rhine Westphalia agreed to move from a 35 to a 40 hour week for no extra pay (*Financial Times*, 16 July 2004).

Public concern about these and other threats of ‘délocalisation’ is such that the issue has rated number one anxiety in public opinion polls in France and number two in Germany (*Libération*, 14 September 2004; *Der Spiegel*, 24 April 2004). The extent of such popular concerns underlines the political potency of relocation decisions by major EU-based multinationals, companies which are widely regarded as pillars of their domestic industrial relations systems. Indeed, in the eyes of some, MNCs headquartered in the existing member states had a key role to play in diffusing the industrial relations dimension of Europe’s social model into the new member states (Gradev 2001).

Fulfilment of such aspirations turns out to be the exception rather than the rule, being highly contingent on factors including the motivation for inward investment, the capital-labour ratio, institutions and actors in the different CEE host economies and the capacity of unions to develop east-west cooperation (Marginson/Meardi 2006). Perhaps the most telling instance is that of German MNCs, companies which in their domestic operations uphold a robust system of co-determination based on works councils with strong rights and supervisory board representation for employees, and participate in sector-level collective bargaining arrangements. Any presumption that such features will be transferred eastwards has been widely questioned by research examining German inward investment (Bluhm 2001; Dörrenbächer 2002; Fichter et al. 2004). Studies consistently reveal a striking contrast between a high level of technological transfer, involving the production model, and an extremely limited industrial relations transfer: works councils are permitted, but have few consultation

rights and companies avoid joining employers associations. Insofar as there is collective bargaining, it is with company-based union or employee representatives.

Meardi and Toth (2005) argue that the dynamics involved between the 'new' and 'old' Europes require some rethinking of established analyses of the diffusion of employment practice across borders within MNCs. These have been framed in terms of either transplantation of home country practices to the overseas operations or, in the face of local resistance due to institutional and cultural differences, hybridisation of home and host country practice (eg Boyer 1998). This two-fold frame, they argue, is conceptually inadequate to capture the reality of MNCs' behaviour in their CEE operations. They propose in addition the possibility of 'pull hybridisation', under which the host country model of labour market regulation 'attracts' inward investors, looking to 'escape' aspects of their home market model. Put another way, CEE environments can be more conducive for innovation in employment practice than home country locations in the densely regulated labour markets of most west European countries.

There are feedbacks from these concessions and innovations into industrial relations systems in western Europe. These are not confined to particular instances of working time, flexibility or other cost-reduction measures. Long-running pressure from employers for a shift from the sector to the company level in collective bargaining has been further augmented. Employers argue that the need for scope at company-level to conclude arrangements governing working time and working practices, if not pay, is even more paramount given the pressure on costs coming from CEE, not to mention locations further afield in Asia. Emboldened by their success in defeating Germany's powerful IG Metall in a strike for working hours parity in the eastern part of the country in 2003, and by the spread of company-level deals to take advantage of extended possibilities for 40 hour working under agreements in the west, Gesamtmetall has called for the role of sector agreements to be confined to specifying standard pay and a few core conditions (EIRO 2003 – Employers' organisations demand more flexible industry-wide agreements). In France, Medef has recently met with success in its persistent campaign for changes in the established hierarchy of agreements, whereby agreements at lower levels can only improve on- and not derogate from – the standards set at a higher level. The 2004 labour law introduced by the centre-right government introduces the possibility of downwards derogation by lower, e.g. company, agreements on a range of issues (EIRO 2004 – Collective bargaining reform law passed).

The result is that sector-level agreements are being emptied further of their substantive content, with the prospect that they retreat towards becoming largely procedural shells. Indeed, one influential European scholar contends that 'only by denying itself most of the characteristics that have in the past forty to fifty years defined it may the sectoral agreement survive' (Visser 2005: 24). The consequence too, is that corrosion of a fundamental pillar of the industrial relations dimension of Europe's social model appears to be accelerating.

Stalling Europeanisation

In examining the implications of the EU's eastern enlargement for the further Europeanisation of labour market regulation, the starting point is to recall the transforma-

tion in the prevalent pattern of collective bargaining structures across the EU. Prior to enlargement, the UK with its single-employer, company-based bargaining arrangements was the exception to the continental west European rule of multi-employer, bargaining structures which provided comprehensive coverage of the labour market. Following the 2004 enlargement, the EU now has a bifurcated pattern – a continuing group of countries with multi-employer-based arrangements is now joined by a second group – which includes most CEE member states – with single-employer bargaining structures. One of the fundamental characteristics of Europe's social model – co-ordinated collective bargaining – no longer holds as a (near) universal truism.

Importantly too, the sector-level – which in most west European countries forms the cornerstone of a multi-level framework which reaches up to the cross-sector level and down to the company and workplace level – is weak or absent across most of the new member states: the 'hole in the middle', as Kohl et al. (2000: 15) put it. Sector-level organisations of trade unions and employers are poorly developed across most CEE countries, with the notable exception of Slovenia. Indeed the very existence of sectoral employers associations is at best patchy (Kohl/Platzer 2004; Mailand/Due 2004). This institutionally weak link has implications for both the vertical and horizontal processes of Europeanisation.

Commencing with the vertical dimension, at EU Community level, the admission of ten new member states into the EU has increased opposition within the EU's Council of Ministers to new regulatory interventions in social policy. The reasons are at least two-fold. First, the new member states are still implementing and coming to terms with the considerable *acquis communautaire* in the social policy field, and for this reason alone they are unlikely to be enthusiastic supporters of fresh legislative initiatives. Second, governments in several CEE member states favour the UK – and US – flexible labour market model which is often seen as the antithesis of the European social model. They are likely to stand alongside the UK in opposing further regulatory interventions which are regarded as impairing labour market flexibility. Already, the potential for such new alliances between member states is evident in the likely retention of the UK's much coveted individual opt-out from the 48 hour weekly maximum under the revised working time directive.

At sector level, the absence of strong sector-level organisations and institutions in most CEE member states could well prove a brake on the new impetus apparent in the sector social dialogue. Voluntary European-level agreements and undertakings can hardly be implemented effectively in countries where the institutional means to do so are absent and the capacity to monitor progress hardly exists amongst the parties (Kohl/Platzer 2004).

At the company level prospects seem different. Geographical extension of the orbits of coercive comparisons available to international management within MNCs has been paralleled by extension of the coverage of the EWCs directive to the ten new member states. Two-thirds of the almost 750 MNCs with established EWCs have operations in at least one of the new member states, according to ETUI (2004) estimates, and will therefore have to enlarge their EWCs to include employee representatives from these countries. Evidence from several studies suggests that in approaching one-half representatives from the new member states were already in place by the time

of the enlargement. In addition, a small number of companies headquartered in the new member states now fall within the scope of the EWCs Directive, because of the scale of their international operations in the EU (Hall/Marginson 2004).

Information on the practice of these newly enlarged EWCs is scant. The few available studies of the experience of integrating employee representatives from the new member states into enlarged EWCs tend to suggest that enlargement exacerbates the existing difficulties which all EWCs tend to face, rather than entailing new kinds of obstacle. Crucially there is little evidence of systematic 'east-west' rivalry undermining their functioning (Hall/Marginson 2004). An investigation of EWC employee representatives in six companies with operations in Poland (Meardi 2004) found that both 'established' and 'new' representatives had little familiarity with the prevailing industrial relations and labour law situation in the new and old member states, respectively. 'Established' representatives suggested that developing such mutual understanding was made all the more difficult when standards were so different across the enlarged EU. Yet, neither group of representatives identified any systematic obstacles to developing 'east-west' cooperation and in several cases were able to point to practical examples of it occurring.

Turning to the horizontal, cross-country, dimension to Europeanisation, there has been speculation as to whether the phenomenon of national-level 'social pacts' might spread to central eastern Europe, particularly as countries in the region start to prepare for a further phase of European integration with entry into the single currency. Yet with the exception of Slovenia, where a social pact anticipating restructuring measures necessary for entry into the single currency was concluded in 2003, there have been few initiatives in this direction. Where they have arisen, as in Poland in 2003, they have foundered on disagreements over key issues between the parties. Elsewhere, as in Hungary, the weakness of trade unions makes it doubtful that governments would see any additional legitimacy deriving from measures agreed under a 'social pact', as compared to the current practice of tripartite social dialogue (Toth/Neumann 2004).

At sector-level, the enlargement of the various trade union initiatives aimed at cross-border coordination of collective bargaining over wages and key conditions to embrace unions from the new member states face formidable difficulties. The most pressing of these is how, operationally, to mesh the company-based bargaining found across most CEE countries into sector-based coordination arrangements. The capacity to coordinate the agenda and outcomes of negotiations across a range of companies, and to monitor settlements, within any given sector calls for levels of discipline, organisation and resources which are considerably beyond those of the fragile sector union organisations found in most new member states.

At company level, amongst the operations of MNCs the capacity of management to mount comparisons of performance between established operations in western Europe and their more recent CEE counterparts, as a means of leveraging concessions from western workforces, has already been referred to. Equally, there are well documented instances of the process operating in reverse, where newly acquired operations in the east are placed under pressure by comparison with operations in the west (Marginson/Meardi 2006). Signs that trade unions are responding in kind across the

enlarged European production space are, however, few and far between. Meardi (2004) suggests that where EWC structures exist and representation has been secured, collaboration can focus on exposing unfair working conditions in CEE countries, where adverse publicity in western Europe can be a potential lever for change.

5. Concluding remarks

Will the consequences of intensified regime competition result in the renewal of pressure for European-level intervention? And, if so, is such a renewal likely to command sufficient support amongst the CEE new member states of central eastern Europe as well as amongst the EU-15? The paper has shown how, in the late 1980s and 1990s, the pressures accruing from regime competition gave important impetus towards EU-level regulatory intervention. This was the *raison d'être* for the original initiative for a social dimension to accompany the creation of the single European market. Specific instances of social dumping propelled particular measures onto the statute book. The two dynamics of regime competition and Europeanisation, although contradictory can also be mutually reinforcing. Will the motor behind the process of Europeanisation elaborated earlier be re-engaged in the years ahead?

In the context of a new round of actual and threatened relocations accompanying the EU's eastern enlargement, a further EU-level policy response has been largely noticeable by its absence. The strengthening of the common, cross-country basis on which an augmented social dimension might rest, in the shape of the constitutional treaty's Fundamental Charter of Rights, has been blocked following the outcome of the French and Dutch referenda. The European Commission itself has taken a neo-liberal turn under the presidency of José Manuel Barroso. The Commission's 2005 social policy agenda contains a single commitment to a relevant new legislative measure, namely an instrument to underpin transnational collective agreements. It refers to the possible revision of the EWCs directive in a passage which stresses the need for new measures to promote 'socially responsible restructuring' (European Commission 2005). However, there seems little prospect that the Commission will actually propose amendments to strengthen the directive (EWCB 2005). Proposals to curb the fiscal dimension of regime competition look equally unlikely to materialise. For example, the German government amongst others has called for a measure to harmonise taxation rates on business – a step which would, however, be fiercely opposed by several new member states.

Public concerns over the consequences of relocations – threatened and actual – in Germany and France, testify to a renewed popular appetite for further European-level intervention in parts of western Europe. One indication of the influence of public pressure, reinforced by some national Governments, comes from the fate of the original draft of the services directive proposed by the European Commission. The measure envisaged the creation of a single market for services, in which providers located in one country would have open access to all other countries' markets through common recognition of a 'country of origin' principle. The proposal stimulated widespread fears that nationally-based service providers would be undercut by cheap-labour service companies operating from the new member states. At the EU Council in March 2005, the current proposal was ditched amidst fears, ironically, that popular

concerns would be mobilised in support of a 'No' vote in France's referendum. Twelve months later, the EU Council supported a European Parliament-brokered compromise which removes the 'country of origin' principle, exempts a number of sectors and gives member states the right to retain, in specified circumstances, compliance regimes for service providers based in other countries. Another sign of the impact of public pressure, but also of the absence of an augmented social dimension, has been the resurgence of protectionist measures – or what French premier Dominique de Villepin proclaims as 'economic patriotism' (*Le Monde*, 14 March 2006) – in the industrial policies of several of the EU-15 (*Financial Times*, 1 March 2006).

The ingredients which might coalesce to build pressure for intervention from the new member states are at present more diffuse. First, there is growing evidence of rising wages and labour costs in the Visegrad countries and Slovenia and, with the important exception of Poland, of tightening labour markets also (Tholen/Hemmer 2005). This development is being accompanied by growing workforce resistance to the flexibilities inherent to prevailing workplace regimes, and a measure of trade union (re)vitalisation (Meardi 2006b). Second, experience of existing transnational structures, such as EWCs, in the context of ongoing corporate and industrial change could persuade trade union representatives from the new member states to make common cause with their counterparts in the west in campaigning to strengthen their rights. Third, the consequences of regime competition – both labour-market related and fiscal – between the CEE countries, particularly in respect of large investment projects, might become a source of pressure for counter-measures. National legislators may no longer remain as willing to respond to the bidding of foreign investors as hitherto. The stalling of Europeanisation which has accompanied enlargement may not necessarily become an enduring feature of the EU landscape.

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